

LARRY R. STENSTROM,  
Appellant

v.

NORTHWEST REGIONAL DIRECTOR,  
BUREAU OF INDIAN AFFAIRS,  
Appellee

: Order Docketing and Dismissing  
: Appeal  
:  
:  
: Docket No. IBIA 01-92-A  
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:  
: March 29, 2001

This is an appeal from a February 12, 2001, decision of the Northwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA), dismissing as untimely Appellant's appeal from a November 30, 2000, decision of the Superintendent, Puget Sound Agency, BIA, which adjusted the rent for Hermosa Point Summer Homesite Lease 8417. For the reasons discussed below, the Board affirms the Regional Director's decision.

Appellant was given appeal instructions by the Superintendent, whose decision not only stated where and when a notice of appeal was required to be filed but also stated: "If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. **No extension of time may be granted for filing a notice of appeal.**"

The Regional Director's decision stated that Appellant signed the certified mail return receipt for his copy of the Superintendent's decision on December 4, 2000, and that his notice of appeal to the Regional Director was postmarked January 11, 2001. Under the facts stated by the Regional Director, Appellant's appeal to him was clearly untimely. The Board therefore ordered Appellant to show why the Regional Director's decision should not be summarily affirmed.

In his response, Appellant concedes that his appeal to the Regional Director was untimely but states that he has numerous health problems, is often unable to attend to his daily activities and, "[e]specially this past winter, [has] not been feeling well." He attaches a letter from his doctor which lists a number of Appellant's health problems. The doctor's letter also states that Appellant takes several costly medications and urges that the expense of his medications be taken into consideration in determining the rent for his lease.

There is no indication in either Appellant's response or his doctor's letter that Appellant was incapacitated during the 30-day period following his receipt of the Superintendent's decision. Thus, even if there were some provision in BIA's appeal regulations that would permit the Regional Director to consider an untimely appeal where the appellant was incapacitated during the time for filing an appeal, it would not apply here.

Appellant has failed to show error in the Regional Director's decision.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed and the Regional Director's February 12, 2001, decision is affirmed.

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Anita Vogt  
Administrative Judge

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Kathryn A. Lynn  
Chief Administrative Judge